

MICHAEL D. GRANSTON
Deputy Assistant Attorney General

LESLEY FARBY
Assistant Branch Director

VINITA B. ANDRAPALLIYAL
JAMES D. TODD, JR.
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 868
Washington, DC 20530
Tel: (202) 305-0845
Fax: (202) 616-8470
E-mail: Vinita.b.andrapalliyal@usdoj.gov

JOHN P. RELMAN, *pro hac vice*
REED COLFAX, *pro hac vice*
GLENN SCHLACTUS Bar No. 208414
STEPHEN HAYES, *pro hac vice*
SARA PRATT, *pro hac vice*
ZACHARY BEST, *pro hac vice*
RELMAN COLFAX PLLC
1225 19th St. NW, Suite 600
Washington, D.C. 20036
Telephone: (202) 728-1888
Fax: (202) 728-0848
rcolfax@relmanlaw.com

Attorneys for all Plaintiffs

Attorneys for Defendants

AJMEL QUERESHI, *pro hac vice*
COTY MONTAG Bar No. 255703
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.

JULIA HOWARD-GIBBON Bar No. 321789
FAIR HOUSING ADVOCATES OF
NORTHERN CALIFORNIA

*Attorney for Plaintiff Fair Housing Advocates of
Northern California*

ALLISON M. ZIEVE, *pro hac vice*
PUBLIC CITIZEN LITIGATION GROUP

Attorneys for all Plaintiffs

MORGAN WILLIAMS, *pro hac vice*
NATIONAL FAIR HOUSING
ALLIANCE

Attorney for Plaintiff NFHA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL FAIR HOUSING ALLIANCE, *et al.*,

Plaintiffs,

v.

MARCIA L. FUDGE, *et al.*,
Defendants.

) Case No. 4:20-cv-07388-JSW

) **JOINT STATUS REPORT AND**
) **REQUEST TO CONTINUE STAY**

In accordance with this Court's March 1, 2021, Order, ECF No. 62, the parties through their undersigned counsel of record file this status report and state the following:¹

1. In this lawsuit, Plaintiffs challenge Defendants' issuance of a final rule, *HUD's Implementation of the Fair Housing Act's Disparate Treatment Standard*, 85 Fed. Reg. 60288 (Sept. 24, 2020) ("2020 Rule"), under the Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq.* See Compl., ECF No. 1.
 2. On October 25, 2020, the United States District Court for the District of Massachusetts stayed the effective date of the 2020 Rule. *Mass. Fair Hous. Ctr. v. U.S. Dep't of Hous. & Urban Dev.*, No. 3:20-cv-11765-MGM, 2020 WL 6390143 (D. Mass. Oct. 25, 2020). On December 23, 2020, the Defendants filed a Notice of Appeal of that decision; however, on February 9, 2021, Defendants filed a motion to voluntarily dismiss their appeal and do not seek to lift the stay in the Massachusetts court during the pendency of that case.
 3. On January 26, 2021, President Biden issued a Presidential Memorandum that instructed that HUD shall also, as soon as practicable, take all steps necessary to examine the effects of the September 24, 2020, rule entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" (codified at part 100 of title 24, Code of Federal Regulations), including the effect that amending the February 15, 2013, rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard" has had on HUD's statutory duty to ensure compliance with the Fair Housing Act. Based on that examination, the Secretary shall take any necessary steps, as appropriate and consistent with applicable law, to implement the Fair Housing Act's requirements that HUD administer its programs in a manner that affirmatively furthers fair housing and HUD's overall duty to administer the Act (42 U.S.C. 3608(a)) including by preventing practices with an unjustified discriminatory effect.
- Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, 86 FR 7487 (published Jan. 29, 2021).
4. In accordance with to the President's directive, HUD began actively examining the discriminatory effects rules. In light of that examination, on February 11, 2021, Defendants requested that the Court stay this case for 60 days. ECF No. 50. On March 1, 2021, the Court granted the Defendants' request and ordered the parties to file a joint status report by April

¹ Marcia L. Fudge is substituted pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

23. Order, ECF No. 62.

5. On April 12, 2021, HUD sent to the Office of Management and Budget a draft proposed rule for inter-agency review entitled Reinstatement of HUD's Discriminatory Effects Standard (FR-6251). *See* www.reginfo.gov/public/do/eoDetails?rrid=162113.
6. In light of HUD's recent action with respect to the rule at issue in this case and to allow for the continuation of the inter-agency review process, the parties respectfully request a continuation of the stay in this case for 90 days, until July 22, 2021, on which date the parties propose to file another status report, updating the Court on the status of the proposed rule and proposing any next steps as appropriate.

Dated: April 23, 2021

Respectfully submitted,

MICHAEL D. GRANSTON
Deputy Assistant Attorney General

LESLEY FARBY
Assistant Branch Director

/s/ James D. Todd, Jr.
VINITA B. ANDRAPALLIYAL
JAMES D. TODD, JR.
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 868
Washington, DC 20530
Tel: (202) 305-0845
Fax: (202) 616-8470
E-mail: Vinita.b.andrapalliyal@usdoj.gov

Attorneys for Defendants

/s/ John P. Relman
JOHN P. RELMAN, *pro hac vice*
REED COLFAX, *pro hac vice*
GLENN SCHLACTUS Bar No. 208414
STEPHEN HAYES, *pro hac vice*
SARA PRATT, *pro hac vice*
ZACHARY BEST, *pro hac vice*
RELMAN COLFAX PLLC
1225 19th St. NW, Suite 600
Washington, D.C. 20036
Telephone: (202) 728-1888
Fax: (202) 728-0848
jrelman@relmanlaw.com

rcolfax@relmanlaw.com
gschlactus@relmanlaw.com
shayes@relmanlaw.com
spratt@relmanlaw.com
zbest@relmanlaw.com

Attorneys for all Plaintiffs

AJMEL QUERESHI, *pro hac vice*
COTY MONTAG Bar No. 255703
NAACP LEGAL DEFENSE & EDUCATIONAL
FUND, INC.
700 14th St. NW, Suite 600
Washington, DC 20005
(202) 682-1300
aquereshi@naacpldf.org
cmontag@naacpldf.org

Attorneys for all Plaintiffs

ALLISON M. ZIEVE, *pro hac vice*
PUBLIC CITIZEN LITIGATION GROUP
1600 20th St. NW
Washington, DC 20009
(202) 588-1000

Attorney for all Plaintiffs

MORGAN WILLIAMS, *pro hac vice*
NATIONAL FAIR HOUSING
ALLIANCE
1331 Pennsylvania Ave., NW, Suite 610
Washington, D.C. 20004
Telephone: (202) 898-1661
mwilliams@nationalfairhousing.org

*Attorney for Plaintiff National Fair Housing
Alliance*

JULIA HOWARD-GIBBON Bar No. 321789
FAIR HOUSING ADVOCATES OF
NORTHERN CALIFORNIA
1314 Lincoln Ave., Suite A
San Rafael, CA 94901
(415) 483-7516
julia@fairhousingnorcal.org

*Attorney for Plaintiff Fair Housing Advocates of
Northern California*

[PROPOSED] ORDER

PURSUANT TO THE PARTIES' JOINT REQUEST, and for good cause shown, this case is stayed for 90 days, at which point the parties are ORDERED to file a joint status report.

IT IS SO ORDERED.

Dated: _____

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE